

Public Law 93-206

December 28, 1973
[S. 1529]

AN ACT

To authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes.

American Falls
Dam, Minidoka
project, Idaho.
Replacement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter called the Secretary) is authorized to negotiate and enter into agreements with the American Falls Reservoir District or other appropriate agency representing the present spaceholders (hereinafter called the constructing agency), which agreements shall authorize the constructing agency to finance and provide for the construction of a dam and related facilities to replace the existing American Falls Dam of the Minidoka project, Idaho-Wyoming. The United States shall take title to the dam upon a determination by the Secretary that construction of the dam is substantially completed, and the dam shall be a feature of the Minidoka reclamation project and shall be considered to be a "Government dam" as defined by the Federal Power Act (Act of June 10, 1920, 41 Stat. 1063, as amended). The Secretary shall operate and maintain the replacement dam as a feature of the Minidoka project. The construction and operation of the replacement dam shall not result in an increase in the elevation of the reservoir water surface above that maintained for the original dam, and provision shall be made for the correction and prevention of erosion related to the reservoir or for the full and adequate compensation of adjacent landowners (including owners of land subject to a flowage easement for the reservoir) if such erosion cannot be corrected or prevented.

49 Stat. 863.
16 USC 791a.

Storage and
contract rights,
protection.

SEC. 2. (a) Replacement of the existing dam as authorized in section 1 hereof shall in no way alter or change the present proportionate storage rights of present spaceholders in the American Falls Reservoir and shall constitute a reaffirmation of existing contract rights between the Secretary and the spaceholders except as otherwise provided in this Act.

River crossing
construction.

(b) The constructing agency shall: (i) include as a part of the project, a river crossing meeting the then current Department of Transportation standards for Federal-aid secondary highway two-lane traffic, which crossing shall be located on top of the replacement dam or immediately downstream from the dam, and which crossing shall be financed by State, Federal, and constructing agency funds, or any combination thereof as the parties deem appropriate; and (ii) design and construct an additional two lanes on top of the replacement dam, which additional two lanes may be funded with State, Federal, or constructing agency funds, or any combination thereof. For the purposes of subpart (ii) of this subsection, the constructing agency shall be considered an "agency" within the meaning of section 320(a) of title 23, United States Code.

72 Stat. 917.

(c) The plans and specifications for the construction of the dam shall require that an adequate two-lane, two-way crossing shall be maintained at or near the site of the dam during construction.

SEC. 3. The constructing agency may enter into repayment contracts with the spaceholders in the existing American Falls Reservoir providing for the repayment by the spaceholders of proportionate shares of the total project costs incurred by the constructing agency for engineering, financing, designing, and constructing the replacement dam, and the Secretary shall be a party to said contracts and the delivery of water to the spaceholders shall be contingent upon the execution of such contracts and the fulfillment of the obligations thereunder: *Provided*, That said contracts shall be consistent with the terms of existing contracts between the Secretary and the spaceholders for repayment of the costs of the existing American Falls Dam.

Repayment contracts with spaceholders.

SEC. 4. The constructing agency may contract with an appropriate non-Federal entity for the use of the falling water leaving the dam for power generation, which contract shall provide for a monetary return to the constructing agency to defray the costs of construction of the replacement dam. The constructing agency may enter into agreements with an appropriate non-Federal entity to coordinate the construction of hydroelectric power facilities with the construction of the replacement dam. The contract and agreements for use of the falling water shall not be subject to the limitations of section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194), or any similar limitations in any other applicable Acts of Congress: *Provided*, That said contract for falling water shall be approved by the Secretary and shall not impair the efficiency of the project to serve the other purposes of the Minidoka project.

Leasing contract for hydroelectric power production.

43 USC 485h.

SEC. 5. Construction of the replacement dam shall not be initiated until the Secretary has approved the designs and specifications of the dam and the plan of construction of the dam and of the proposed operation of the dam and reservoir. Construction of each related facility shall not be initiated until the Secretary has approved the designs and specifications thereof. Costs incurred by the Secretary in reviewing such designs, specifications, plans, and construction shall be included as project costs allocated to beneficiaries of the replacement dam and shall be reimbursable to the Secretary.

Designs and specifications, approval.

Costs, reimbursement to Secretary of Interior.

SEC. 6. The Secretary is authorized to provide specific facilities for public recreation and fish and wildlife enhancement in connection with the replacement dam, and the costs of such facilities shall be repaid in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). In addition, specific facilities for public recreation may also be provided in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 460, et seq.).

Recreational, fish, and wildlife facilities.

16 USC 460/-12 note.

SEC. 7. There is hereby authorized to be appropriated for construction of specific facilities for public recreation and fish and wildlife enhancement the sum of \$400,000 (July 1972 prices) plus or minus such amounts, if any, as may be required by reason of the changes in the cost of construction work of the type involved therein as shown by engineering cost indices. There are also authorized to be appropriated such funds as may be necessary to meet the prorated construction cost apportionable to the irrigation storage rights of the Michaud Division of the Fort Hall Indian Reservation for space in the reservoir behind the American Falls Replacement Dam and such cost shall be subject to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 368a). There are also authorized to be appropriated such funds as are required for the operation and maintenance of the dam and related facilities.

Appropriation.

Fort Hall Indian Reservation, irrigation storage rights costs.

25 USC 386a.

Approved December 28, 1973.